



ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, D.C. INTERNATIONAL

December 10, 2013

Freedom of Information Officer
U.S. Environmental Protection Agency Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

**Re: General Motors Central Foundry Division.
Town of Massena, St. Lawrence County, New York
EPA ID: NYD091972554**

*PAAD road
12/12 WCL*

Dear Freedom of Information Officer:

Earthjustice, on behalf of Larry Thompson and Dana Leigh Thompson, submits this request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the EPA regulations governing public access to records, 40 CFR Part 2, for the records identified below.

I. Definitions

As used in this request, the following terms have the meanings set forth below:

1. "USEPA" means the United States Environmental Protection Agency, its employees and contractors.
2. "GM" means the General Motors Corporation.
3. "Environmental Response Trust" means the trust created by the Environmental Response Trust Consent Decree and Settlement Agreement filed in the United States Bankruptcy Court for the Southern District of New York (Case No. 09-50026) in or about October, 2010.
4. "RACER Trust" means the Revitalizing Auto Communities Environmental Response Trust and includes all contractors employed by or acting on behalf of the RACER Trust.
5. "Motors Liquidation Company" means the entity formerly know as the General Motors Corporation.
6. "NYSDEC" means the New York State Department of Environmental Conservation, its employees and contractors.
7. "SRMT" means the St. Regis Mohawk Tribe and its council, departments, divisions and employees.
8. "Site" means the General Motors Central Foundry Division Superfund Site located at 56 Chevrolet Drive, Town of Massena, St. Lawrence County, New York.

NORTHEAST 48 WALL STREET, 19TH FLOOR NEW YORK, NY 10005

9. "ROD" means the USEPA's Record of Decision for Operable Unit 2 dated March 31, 1992.

10. "OU2" means Operable Unit 2 as defined in the ROD.

11. "Administrative Order" means the Administrative Order for Remedial Design and Remedial Action issued by USEPA to GM pursuant to Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9606, on or about August 1992.

12. "GM Plant" has the meaning set forth in EPA's Administrative Order for Removal Action issues to the Motors Liquidation Company and dated August 18, 2010.

13. "Removal" and "remedial" have the meanings set forth in Sections 101(23) and 101(24) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601(23) and (24).

14. "Funding Accounts" means any and all funding accounts established pursuant to the terms of the Environmental Response Trust Consent Decree and Settlement Agreement filed in the United States Bankruptcy Court for the Southern District of New York (Case No. 09-50026) in or about October, 2010.

II. Time Period

This request is for the time period *January 1, 2010 until the date of the USEPA response to this request.*

III. Records Requested

1. All records concerning, relating to or constituting communications between USEPA and the Motors Liquidation Corporation, Environmental Response Trust, or the RACER Trust regarding the Administrative Order.
2. All records concerning, relating to or constituting communications between USEPA and the Motors Liquidation Corporation, Environmental Response Trust, or the RACER Trust regarding implementation, including timetables or schedules for implementation, of the ROD for OU2 or implementation of any removal or remedial actions at or related to OU2.
3. All records concerning, relating to or constituting communications between USEPA and SRMT regarding implementation of the ROD for OU2.
4. All records concerning, relating to or constituting communications between USEPA and the Motors Liquidation Company, Environmental Response Trust or the RACER Trust regarding any actions related to demolition and/or removal of the GM Plant, including any removal or remedial actions planned, proposed or taken in connection with demolition and/or removal of the GM Plant.

5. All records concerning, relating to or constituting communications between USEPA and SRMT regarding any actions related to demolition and/or removal of the GM Plant.
6. All records concerning, relating to or constituting communications between USEPA and the Motors Liquidation Corporation, Environmental Response Trust, or the RACER Trust regarding PCBs at the Site.
7. All records concerning, relating to or constituting communications between USEPA and the Motors Liquidation Corporation, Environmental Response Trust, or the RACER Trust regarding air quality monitoring for PCBs at or in the vicinity of the Site.
8. All records concerning, relating to or constituting communications between USEPA and the Motors Liquidation Corporation, Environmental Response Trust, or the RACER Trust regarding potential exposure of humans to PCBs originating at the Site.
9. All records concerning or related to human health assessments prepared by or on behalf of any federal, tribal, state or local agency concerning the Site.
10. All records concerning or relating to any cap or cover placed and/or planned to be placed on any portion of OU2.
11. All records concerning or relating to expenditures of funds from any Funding Accounts in connection with any removal or remedial actions at the Site.

IV. Fee Waiver Request

Pursuant to 5 U.S.C. § 552, Earthjustice requests a fee waiver because “disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 40 C.F.R. § 2.107(l)(1). As demonstrated below, all of the factors specified in EPA’s FOIA regulations at 40 C.F.R. § 2.107(l)(2) weigh in favor of granting our fee waiver request.

Factor 1: The Requested Records Concern the Operations or Activities of the Federal Government

The subject matter of the requested records concerns operations or activities of the government because it pertains to EPA’s actions regarding remediation of the Site.

Factor 2: Disclosure of the Requested Records is Likely to Contribute to Public Understanding of Government Operations or Activities

Disclosure of the requested records is likely to contribute to public understanding of government operations or activities because such disclosure will enable the requesters to more fully understand the sequence of events within the time period covered by the request (January 1, 2010 to the present) regarding removal and remedial actions planned or taken at the Site.

Factor 3: Disclosure of the Requested Records Will Contribute to the Understanding of a Broad Audience of Persons Interested in Government Action Regarding Cleanup of the GM Massena Superfund Site

Disclosure will contribute to the understanding of a broad audience of persons interested in learning about government action regarding cleanup of the Site, particularly those actions occurring during the time period relevant to this request (January 1, 2010 to the present). First, the requesting organizations are directly affected by cleanup activities at the Site, and are well-prepared to evaluate the requested records once they are received. Second, each requesting organization has mechanisms in place to share information obtained from the requested records with (1) their members and supporters, (2) policymakers at the federal and state level who are leading the cleanup effort at the Site, and (3) members of the news media, who will then disseminate this information to the general public.

Earthjustice, a national nonprofit environmental law firm, has made safeguarding public health against toxic chemicals one of its top priorities and has developed expertise in this area. See http://www.earthjustice.org/our_work/health_and_toxics/. Earthjustice can publicize information received from this request in its monthly electronic newsletter, which serves approximately 223,000 subscribers. Earthjustice also can utilize its online action alert system to urge members of the public to contact policymakers and ask them to take action based on information received from this request; typically, 15,000 to 20,000 individuals respond to such alerts.

Factor 4: The Contribution to Public Understanding of Government Operations or Activities Will Be Significant

The contribution to public understanding of government operations or activities will be significant as compared to the level of public understanding existing prior to disclosure. At present, the public – and in particular the people living at Akwesasne – have only vague and at times conflicting information concerning the progress of cleanup activities at the Site. If this information request is granted, the timeline of cleanup actions will be much clearer and the public will have access to a fuller understanding of where things stand in the cleanup process.

Factor 5: The Requesters Have No Commercial Interest in the Requested Disclosure of Information

Requesters are 501(c)(3) nonprofit organizations and do not have a commercial interest that would be furthered by the requested disclosure of information

Factor 6: Requesters' Sole Interest in Disclosure is to Promote the Public Interest

Requesters' sole interest in obtaining the requested information is to broaden public understanding of potential health and environmental risks posed by the Site and the governmental actions being taken to clean up the Site.

In sum, this request meets the factors for a fee waiver. In the event that fees are not waived, please notify and inform me of the basis for your decision.

V. Delivery of Records

To the extent that the requested records are available in a readily accessible electronic format, we would prefer to receive the documents electronically, either by email or on a CD. If electronic copies are unavailable, we will accept paper copies. Please send records to Christopher Amato at camato@earthjustice.org or mail them to:

Christopher Amato, Esq.
Earthjustice
48 Wall Street, 19th Floor
New York, NY 10005

As FOIA requires, we expect your response within twenty working days of your receipt of this request. In the event that you have any questions concerning the type of materials we are interested in receiving, please contact the undersigned by email or by telephone at 212-845-7390.

Thank you for your assistance in this matter.

Sincerely,



Christopher Amato
Staff Attorney